

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No 02-6
Support Mechanism)	
)	

COMMENTS OF THE NATIONAL ASSOCIATION
OF STATE UTILITY CONSUMER ADVOCATES
ON THIRD REPORT AND ORDER AND
FURTHER NOTICE OF PROPOSED RULEMAKING

The National Association of State Utility Consumer Advocates (NASUCA)¹ commends the Federal Communications Commission (Commission) and, in particular, the Universal Service Administrative Company (USAC) for their continued diligent husbandry of the E-Rate program. An ample measure of the success of this program is the increase in the percentage of public school rooms with Internet access from barely 14% at the program's inception to over 92% today. Given this proven success there is no apparent need for major changes in policy or procedure. Instead what is called for are minor modifications to reach the remaining 8%, and to assure that the most effective use is made of available E-Rate funding. The rules adopted in the Third Report and Order limiting the frequency of funding for internal connections, establishing a "safe harbor" list of eligible services, and providing for the roll over of unused funds are precisely the kind of fine-tuning that is needed.

We have the following comments on the notice of proposed rulemaking:

THE COMMISSION SHOULD NOT ADOPT ANY CHANGE TO THE DISCOUNT MATRIX

The arguments in favor of reducing the maximum discount for internal connections from 90% to 80% have some attraction. It is quite probable that the increased "ownership stake" inherent in the larger co pay would incent more careful shopping for goods and

¹ NASUCA is a non-profit, national association organized in 1979, whose members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. NASUCA members operate independently from state utility commissions, primarily as advocates for residential ratepayers, although some members also represent small business ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General's office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

services as well as more diligent maintenance of equipment once acquired. Also, collapsing the two top discount bands into one would almost certainly have the effect of spreading limited internal connection funding over a wider range of schools. There are, however, at least four reasons why such a major policy change should not be made at this time:

1. As Commissioner Adelstein notes in his separate statement, some schools cannot afford a 20% co pay. Eliminating the 90% discount band would leave these schools – the poorest schools with the most poor children – unconnected. We should not leave these children behind on the wrong side of the digital divide.
2. If 92% of school rooms have already been connected, then most of the schools that do not qualify for the 90% discount have already been connected. The current need for internal connection funding for these schools is, therefore, not critical and the existing, successful matrix should not be changed to meet a non-pressing need.
3. To the extent that funds are being overly committed to schools in the 90% discount band, the rule adopted in this order limiting the frequency of internal connection funding should alleviate the problem.
4. The proposed rulemaking requests comments on ways to target the remaining unconnected schools. This too should eliminate the need to change the matrix as a means of spreading internal connection funding beyond the poorest group of schools.

The adopted and proposed rules should be given a chance to operate and then their impact on the distribution of internal connection funding should be analyzed. If the rules are successful in spreading the funds to a broader range of entities, the damage done to those schools unable to afford a higher co pay would outweigh the benefits of altering the matrix.

THE COMMISSION SHOULD PURSUE THE PROPOSED STREAMLINING INITIATIVES

We believe that the Commission should continue to pursue means to streamline and simplify the application process and administrative procedures, such as those discussed in paragraphs 63 through 78 of this Order. We do not, however, have any comments on these specific proposals at this time.

COMMENTS ON PROPOSED RULES TO LIMIT WASTE, FRAUD, AND ABUSE

1. The Commission should not adopt a rule requiring schools to obtain permission from their governing districts before applying for E-Rate funds. It may be more efficient to have districts, rather than individual schools, plan and apply for funds. Indeed, a review of funding commitments shows that a substantial majority of the commitments are made to districts, not individual schools. The organization and operation of local schools,

however, have traditionally been matters for State and local government. Without pressing a need, the Federal government should not intrude into this jurisdiction.

2. The Commission should consider a rule requiring schools to pursue the most cost effective means of meeting their technological goals. There are, however, at least two serious problems to be considered:

a) The very rapid technological developments in this area make it almost literally possible that today's most cost effective means will be tomorrow's most wasteful approach. At the time of application the school may have made the most cost effective choices, but they may no longer be the most cost effective at the time funding decisions are made. Schools should not be punished for such changes.

b) Poor schools may only be able to afford less than cutting edge technology. Such technology may be less expensive in the short run while also less cost effective in the long run.

For these and other reasons, the determination of cost effectiveness should include sufficient discretion to allow for the fact that planners often cannot keep up with nor afford the latest and best technology.

3. We strongly support a rule requiring the maintenance of a paper trail adequate for proof of compliance. We also strongly support USAC's conducting periodic, random compliance audits.

We feel certain that most schools are doing their honest best to comply with the rules of the program. But a regular, rigorous review of compliance is absolutely required to assure both program and school administrators that the rules are being properly understood and applied. It might be worthwhile, therefore, to consider a requirement that all schools, on a regular basis such as every three years, review their files and certify to USAC that their paper record does (or does not) show compliance. Schools that cannot certify compliance should be required to submit a corrective plan and recertify within a reasonable period.

4. The Commission should consider abandoning statistical sampling as a means of determining the percentage of students eligible for the Federal free lunch program.

We need much more information about the survey instruments used in order to offer definitive comments on the issues raised. In general, a 50% response rate would be adequate with two major provisos: 1) the responses must yield a sample of about 150 or more to assure statistical validity, and 2) the responses must yield a sample that is truly random. If either of these two conditions is not met, the survey is likely to yield invalid results.

Of particular concern is the issue of randomness, which plagues all surveys. Respondents are, in most cases, self-selected. Those who respond choose to respond; they are not

required to do so. There is often bias in the process of self-selection and this bias undermines the randomness necessary in the sample.

The wording of the survey questions may also bias the result. For example, the following wording:

“In order to be eligible for additional funding at least 75% of our students need to be eligible for a free lunch. Are your children eligible for a free lunch?”

obviously incents a positive response. On the other hand, wording such as

“Is your family poor?”

would likely incite a negative response because responding positively would bring a sense of shame to many parents.

If sampling is the only method available for determining the number of eligible children, we need a much better analysis of the extant surveys in order to suggest improvements. Better, however, would be to rely on a direct measure. We do not know enough about the administration of the school lunch program, but we wonder if it is not the case that schools track how many free lunches they serve and, hence, could be able to provide a more precise measure of what percentage of their children receive free lunches? This would not be exactly the percentage eligible for free lunches, since there may be eligible children that do not partake of free lunches. But this should be a consistent problem, school-to-school, and the resulting measurement should be more consistent than problematic survey results.

THE COMMISSION SHOULD DEVELOP MECHANISMS TO TARGET FUNDING TO THOSE SCHOOLS THAT ARE NOT YET CONNECTED TO BROADBAND INTERNET

Any detailed recommendations concerning the nature of those mechanisms, however, requires that we know much more about the schools that are not connected. It may well be, for example, that a number of those schools are dedicated to classical education in the tradition of the three R's and have explicitly rejected connection. These schools would reject Internet connection, even if targeted funding were available. The first step, then, in tailoring assistance programs for the “unconnected” is to perform an analysis of the characteristics of the unconnected schools.

Assuming that many if not most of the remaining unconnected schools do desire connection, one potentially useful place to start would be to consider ways to provide funds to support the planning process, including preparation of the technology plan and applications. We have heard that at least some schools find the application process very difficult and some may find it too daunting to be dealt with.

Some schools may not be able to afford even the 10% co pay expected of those in the 90% discount band. Consideration should be given to ways of providing supplemental funds to unconnected schools that are able to demonstrate inability to meet the 10% co pay requirement.

Funds could be made available for state outreach activities in states with relatively high numbers of unconnected schools.

Finally, some schools may have chosen to remain unconnected after realizing that none of their teachers had the necessary skills to make adequate educational use of the new technologies. Lacking such teachers, a school is making the rational, and laudable, decision to forgo connection unless and until it can produce or recruit teachers able to use it effectively.

Indeed, lack of effectively trained teachers may not only impede the connection of the last remaining schools but may also be leading to inefficient and ineffective use of the connections that have been made. We have heard anecdotal evidence of connected classrooms where the connection is all but wasted because the teacher can do little more than perform Google searches. We have also heard stories of classrooms where the connection is regularly used, but only because there is a particularly computer savvy student in the class who becomes the *de facto* Internet guru. In one, certainly apocryphal such tale, the student guru was held back a year solely because the teacher did not want to lose the class' systems expert.

If there is even a hint of truth to these stories, achieving 100% connectivity would be a Pyrrhic victory. Spending money to connect schoolrooms without teachers competent to use the connection is wasting money and amounts to no success at all. To the extent that this is a problem, effectively connecting the last schools and assuring effective use of the connections already funded, requires that all teachers have access to training not only in basic computer skills and popular software tools but also in the particular tools and Internet resources that have proven pedagogically useful.

This, in turn, may require earmarking E-Rate funds for training purposes. Such funding could be made in a number of ways, and legislative changes may be required. The time is clearly right, however, with nearly 100% connectivity, to assess the level of teacher preparedness and provide assistance where teachers are inadequately prepared. To do otherwise is to make inefficient use of the funds.

Respectfully submitted,

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